


Commonwealth of Virginia		
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Andrew Kubincanek, Program Coordinator		
Administrative Law Advisory Committee		

SUMMARY
Administrative Law Advisory Committee
July 29, 2015
12:00 p.m.
House Room 2
The Capitol, Richmond

MEMBERS PRESENT: Tom Lisk (chair), Elizabeth Andrews, Roger Chaffe, Jeff Gore, Eric Page, Alex Skirpan, Kristina Stoney

MEMBERS ABSENT: Edward Mullen, Karen Perrine, Brooks Smith, Kristi Wright, Mike Quinan

STAFF PRESENT: Andrew Kubincanek

Welcome and call to order: Tom Lisk called the meeting to order at 12:09 p.m.

MSAPA Judicial work group update: Eric Page updated the group on the MSAPA Judicial work group's progress. Mr. Page stated that he believed the group would have a draft on ex parte communications prepared for the full committee at the next meeting. He also stated that the group was very close to completing language on reconsideration and would begin work on the intervention section at the next meeting.

Executive Review work group update: Tom Lisk informed the group that Carlos Hopkins had stated at the Code Commission meeting that the Governor's Office had formed a task force to study the efficiency of the executive review process and implement reforms. Kristina Stoney added that the task force seemed very dedicated to addressing the issues. The executive review work group will await the results of the study.

VAPA Exemption Update: Ms. Stoney presented her findings on the exemption in 2.2-4006.A.4.a; she stated that the Office of the Attorney General's (OAG) APA Committee determined that the language was clear and did not recommend an amendment. She stated that the OAG may recommend enactment clauses on certain types of statutes that fall under this exemption and will take steps to ensure that the exemption is interpreted consistently as having a mandatory time frame. Registrar of Regulations Jane Chaffin stated that she did not believe the

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intent of the legislation was to force agencies to use the full or emergency process if the time frame was not met, but that the OAG's interpretation of the exemption as is stands is correct. Mr. Lisk said that he is reluctant to propose a change if a clear or endemic problem does not exist, but that it seems counter-intuitive that an agency should have to return to the full promulgation process. ALAC will continue to monitor the issue as necessary.

Guidance Document availability/incorporation by reference update: Andrew Kubincanek presented disclaimer language that had been drafted by ALAC in 2008 and 2009 as the result of a study on incorporation by reference. The language was designed as a pop-up that would appear when a user attempted to navigate from the Virginia Administrative Code website to an outside document. The language was approved by the Code Commission in 2009, but had never been implemented due to technical issues. The language was added to the bottom of the Virginia Administrative Code home page on July 29, 2015.

Public Comment and Adjournment: Mr. Lisk opened the floor for public comment. Hearing none, he adjourned the meeting at 12:30 p.m.

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